



# INDEPENDENT SOFTWARE DUPLICATION

A Division of Copysoft Pty Ltd ABN 21 002 774 978

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## TERMS OF TRADE

### 1. Purchase Price

- 1.1 The prices quoted by ISD include GST. In addition to the price specified herein, the amount of any such tax applicable to the sale of product produced by ISD shall be paid by the Purchaser.

### 2. Authority to re-Produce Master Copy

- 2.1 The Purchaser acknowledges and gives consent to ISD re-producing a production master copy from the master supplied by the Purchaser.
- 2.2 The Purchaser expressly permits ISD to duplicate the master copy, which master copy shall be returned to the Purchaser, if requested, at the time the product is delivered to the purchaser.
- 2.3 The Purchaser expressly permits and authorises ISD to retain the production master copy providing that the production master copy shall not be reproduced without the expressed authority of the Purchaser.
- 2.4 Upon the Purchaser delivering the master copy to ISD the Purchaser warrants to ISD that the master copy is free of faults and viruses.

### 3. Delivery and Risk

- 3.1 ISD will use its best endeavors to deliver the product to the specified place of delivery on or before the Purchaser's requested delivery date but in no event will it be liable for any loss or damage suffered by the Purchaser as a result of the product not being delivered by the requested delivery date. ISD may deliver the product prior to the requested date.
- 3.2 Unless otherwise agreed in writing to ISD, all freight charges associated with delivering the product to the place of delivery will be invoiced to and paid by the Purchaser.
- 3.3 Risk in the product shall pass to the customer upon delivery to the Purchaser.
- 3.4 The title to and property in all product manufactured and delivered to the Purchaser hereunder and any substitutions or additions thereto and the right to possession thereof shall not pass from ISD until all payments have been fully made by the Purchaser. Upon failure to make any payment that payment shall immediately become due and payable and ISD may immediately enter the premises where the said product is located and take possession of and remove the same as its property and may retain any or all partial payments already received as a rental charge for the use of the product without affecting any further or other claims it may have against the Purchaser. The Purchaser agrees to do all acts necessary to implement and maintain such right of the company.

### 4. Payment

- 4.1 On delivery of the product, ISD will invoice the Purchaser for the supply of the product. The invoice will particularise the purchase price and any additional charges including GST.
- 4.2 Payment for the product must be made in accordance with the Terms shown on the invoice or as otherwise agreed in writing.

### 5. Warranties

- 5.1 ISD warrants that the product to be delivered will be of the kind designated or specified and shall be free from defects in manufacture and materials for a period not exceeding ninety days (90).



- 5.2 To the extent permitted by law, ISD expressly limits its liability for a breach of a condition or warranty under this agreement to the following, the choice of which is to be solely at the discretion of ISD:
- (a) In the case of goods,
    - (i) the replacement of goods supplied by equivalent goods
    - (ii) the repair of the goods supplied
    - (iii) the payment of the cost of having the goods repaired
  - (b) in the case of any service,
    - (i) the resupply of the service
    - (ii) the payment of the cost of having the service resupplied
- 5.3 The liability in damages, shall at no time exceed the purchase price or equivalent value in kind of ISD. It is expressly acknowledged by the Purchaser that ISD shall not be liable for consequential, incidental or punitive loss, damages or expenses, how so ever arising, including negligence of ISD, its servants and agents.
- 5.4 The Purchaser expressly acknowledge that save for those warranties implied by law which are not capable of exclusion or amendment by the parties the warranties hereby given by ISD shall not apply nor shall they be relied upon by the Purchaser unless the Purchaser following the delivery of the product, institutes a sample check as to the quality of the product within fourteen (14) days of receipt of the product and in any event prior to delivery of the product to customers of the purchaser.

#### 6. Defects in product

If during the warranty period there is a defect in the performance, material or workmanship of the product, the Purchaser will promptly notify ISD of the defect and will make no attempt to remedy the defect. The Purchaser will allow ISD to obtain samples of the defective product for testing and of the defective product for repair or replacement of the product required by this agreement.

#### 7. Force Majeure

ISD shall not be liable for delay in delivery or failure to manufacture due to causes beyond its reasonable control such as acts of God, acts of civil or military authority, priorities, fires, strikes, floods, epidemics, quarantine restrictions, war delays in transportation, truck shortages and inability due to causes beyond its reasonable control to obtain necessary labour materials or manufacturing facilities. In the event of any such delay the date of delivery may be extended for a period equal to the time lost by reason of the delay.

#### 8. Storage

ISD will not be liable for any loss or damage to the product stored after the due date of delivery in ISD's premises at the request of the Purchaser.

#### 9. Benefit of Agreement

The Purchaser will not assign or transfer the benefit of this agreement.

#### 10. Notice

Any notice required by this agreement will be in writing and will be taken as sufficiently served if delivered or sent by ordinary post or facsimile to the business address shown on this agreement.

#### 11. Electronic mail orders.

Upon ISD receiving any order electronically from the Purchaser the order is deemed to have been received by ISO only when the order is confirmed by ISD to the appropriate officer or agent of the Purchaser by which ever means ISO should choose which includes but is not limited to telephone, facsimile, letter and electronic mail.



## COPYRIGHT INDEMNITY

In consideration of ISD acceptance to replicate or mass produce computer programmes or information (including both visual and audio material) on CD, CD-ROM or computer diskettes (hereinafter referred to as “the property”) the Purchaser and the Directors agree with the following;

1. The Purchaser and the Directors warrant that the use, testing, replication and mass production of any or all of the property supplied by The Customer will not result in infringement of intellectual property rights of third parties and that the Customer possesses all necessary intellectual property rights in respect of the property.
2. The Purchaser and the Directors warrant that they are permitted in law and have full power to request ISD to use, test, replicate or mass produce any or all of the property.
3. The Purchaser and the Directors will indemnify and agree to keep ISD and ISD’s employees, agents or representatives fully and effectively indemnified against all actions, claims, or other liabilities which ISD and ISD’s employees, agents or representatives may sustain or incur or which may be brought against ISD and ISD’s employees, agents or representatives by any person or body arising out of any breach or alleged breach of these warranties.
4. The Purchaser will promptly inform ISD if the Purchaser shall become aware of any claim in respect of the property.
5. The Purchaser accepts that ISD may at ISD’s discretion halt or suspend work in respect of the property at any time if ISD considers that there is or may be a breach of rights in respect of the property and the Purchaser will make no objection or claim for compensation in respect any such suspension.
6. **Errors. Corrupted data and missing attachments:**
  - (1) Upon ISD receiving any computer program as defined by the Copyright Act 1968 (Cth) or any other information by any means including electronic mail the Purchaser and the Directors jointly and severally agree to indemnify ISD from any loss or claims for damages arising directly or indirectly from:
    - (a) any error or corruption contained within or attached to the computer program and or other information;
    - (b) any error or corruption that arises out of the transmission of the computer program and or other information by any means;
    - (c) any error or corruption that is a result of any circumstances outside the control of ISD;
    - (d) any missing or lost information whether it forms an attachment to the electronic mail or otherwise.





Conditions of CD Replication

In consideration of ISD at the request of the Customer reproducing the master CD-A, CD-ROM or DVD the Customer agrees, warrants and represents as follows:

1. That at the time of delivery of each master CD-A, CD- ROM and/or DVD, the Customer is the exclusive owner or other wise controls the rights of the performances contained in the recordings and has been given all consents necessary to enable the reproduction of such recordings.

2. That at the time of delivery of the master CD-A, CD\_ROM and/or DVD, the Customer is the exclusive owner in the copyright of the composition or compositions or other material or works embodied in the recordings ('the works') to be reproduced or for those works that the customer possesses the full rights, power and has obtained all consents necessary to authorise the reproduction of the works.

3. That the Customer has secured any necessary clearances of any mechanical copyright that may be applicable in respect of the works or will make application and thereby undertakes to obtain such clearance from AMCOS.

4. That all master CD-A(s), CD-ROM(s) and/or DVD(s) are reproduced on the basis that if any breach of copyright occurs by virtue of such reproduction, the Producer will not be held responsible for the infringement of copyright and the Customer undertakes and warrants to keep the Producer fully and effectively indemnified against all claims, losses, expenses, damages and demands arising out of or as a consequence of any breach or infringement by the Customer of any warranty or representation made herein.

5. The Customer warrants that the CD-A(s), CD-ROM(s) and/or DVD(s) reproduced will not be used for any illegal purpose and will not be used in any manner to infringe another person's copyright in the works on in the recordings.

6. As goods are specifically manufactured for the customer, the customer will need to accept a variation of plus or minus 10% in the quantity supplied.

Dated \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ year
Customer Name: \_\_\_\_\_
Customer Address: \_\_\_\_\_
Signature: \_\_\_\_\_
If Company Title: \_\_\_\_\_

